

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CASE NO. DNCW3:04CR190-5
Financial Litigation Unit)
CARL W. JOHNSON,)
Defendant,)
and)
RHA HEALTH SERVICES, LLC,)
Garnishee.)

AMENDED ORDER OF CONTINUING GARNISHMENT

THIS MATTER is before the Court on the United States Motion to Amend Order of Continuing Garnishment. On January 30, 2006, the Honorable Lacy H. Thornburg sentenced Defendant to eighteen months imprisonment on his conviction for Conspiracy to Defraud the United States, Money Laundering, and Aiding and Abetting in violation of 18 U.S.C. § 371, 1956(h), 1956(a)(1)(A)(i) and 2, and 1956(a)(1)(B)(i) and 2. An amended judgment in the criminal case was filed on March 15, 2006 (Docket No. 132). As part of that judgment, Defendant was ordered to pay an assessment of \$400 and restitution of \$241,000.00 to the victims of the crimes.

Id.

On June 22, 2012, the Court entered a Writ of Continuing Garnishment ("Writ") (Docket No. 192) to Garnishee RHA Health Services, Inc. ("Garnishee"). The United States is entitled to a wage garnishment of up to twenty-five per cent of net income and has satisfied the prerequisites set forth in 15 U.S.C. § 1673. Defendant and Garnishee were individually served with the Writ on June 26, 2012. Garnishee filed an Answer on June 28, 2012 (Docket No. 196) stating that at the time of the service of the Writ, Garnishee had in their custody, control or possession property or

funds owned by Defendant, including non-exempt disposable earnings. The Answer of Garnishee further stated that Defendant's wages are currently being garnished for delinquent Cabarrus County, North Carolina State taxes. The North Carolina State tax garnishment is for ten per cent of Defendant's gross wages per pay period.

State and federal tax garnishments are not subject to the same percentage limitations as other types of garnishments. *See* 15 U.S.C. § 1673.

Since the North Carolina State tax garnishment is ten per cent of Defendant's gross earnings, the United States requests that ten per cent of Defendant's net earnings which remain after all deductions required by law have been withheld, and one hundred per cent of all 1099 payments be applied to the United States' garnishment, and that the United States' garnishment take effect immediately.

IT IS THEREFORE ORDERED that this Amended Order of Continuing Garnishment is hereby ENTERED in the amount of \$225,106.21 computed through June 21, 2012. Garnishee will pay the United States ten per cent of Defendant's net earnings which remain after all deductions required by law have been withheld and after the existing Cabarrus County, North Carolina State tax garnishment has been applied, and one hundred per cent of all 1099 payments, and Garnishee will continue said payments until the debt to the Plaintiff is paid in full, or until Garnishee no longer has custody, possession or control of any property belonging to Defendant, or until further order of this Court.

IT IS FURTHER ORDERED that upon full satisfaction of Defendant's delinquent Cabarrus County, North Carolina State tax debt and termination of the North Carolina State tax garnishment, the Garnishee will pay the United States ten per cent of Defendant's net earnings which remain after all deductions required by law have been withheld, and one hundred per cent

of all 1099 payments, and Garnishee will continue said payments until the debt to the Plaintiff is paid in full, or until Garnishee no longer has custody, possession or control of any property belonging to Defendant, or until further order of this Court.

Payments should be made payable to the United States Clerk of Court and mailed to:

Clerk of the United States District Court
401 West Trade Street
Charlotte, North Carolina 28202

In order to ensure that each payment is credited properly, the following should be included on each check: Court Number DNCW3:04CR190-5.

IT IS FURTHER ORDERED that Garnishee will advise this Court if Defendant's employment is terminated at any time by Garnishee or Defendant.

Plaintiff will submit this debt to the Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment Defendant would normally receive may be offset and applied to this debt.

SO ORDERED.

Signed: October 28, 2015



David S. Cayer

United States Magistrate Judge

